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July 11, 2001

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RECEIVED

JUL 11 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
Room TW-B204
445 12th Street, S.W.
Washington, D.C. 20554

Re: MM Docket No. 92-214
Columbia, Bourbon, Leasburg,
Gerald, Dixon and Cuba, Missouri

Dear Ms. Salas:

On July 3, 2001, this office filed both an Opposition to Petition for Reconsideration in the above-captioned proceeding on behalf of Zimmer Radio of Mid-Missouri, Inc. ("ZRMMI") and an Opposition to Petition for Reconsideration in related MM Docket 91-352 on behalf of W.R.D. Entertainment, Inc. We have just learned that the Service List in this proceeding inadvertently was sent the MM Docket No. 91-352 pleading rather than the MM Docket No. 92-214 pleading. Accordingly, we are hereby resubmitting ZRMMI's Opposition to Petition for Reconsideration to assure that all parties receive the proper pleading. We apologize for any inconvenience this error has caused.

Should any questions arise concerning this matter, please contact this office.

Very truly yours,
FLETCHER, HEALD & HILDRETH, P.L.C.


Frank R. Jazzo
Counsel for Zimmer Radio of Mid-Missouri, Inc.

Enclosures
cc: Service List

No. of Copies rec'd 014
List A B O D E

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 92-214
Table of Allotments,)	RM-8061
FM Broadcast Stations.)	RM-8144
(Columbia, Bourbon, Leasburg,)	RM-8145
Gerald, Dixon and Cuba, Missouri))	RM-8146
)	RM-8147

Directed to: Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau

OPPOSITION TO PETITION FOR RECONSIDERATION

Zimmer Radio of Mid-Missouri, Inc. ("Zimmer"), by its counsel, hereby respectfully submits its Opposition to the Petition for Reconsideration submitted by Lake Broadcasting, Inc. ("Lake") in the above-captioned proceeding on May 15, 2001. With respect thereto, the following is stated:

1. The instant proceeding commenced on July 30, 1992, when Zimmer's predecessor-in-interest, The Greenfield Group, filed a petition for rule making seeking the substitution of Channel 244C1 for Channel 244C3 at Columbia, Missouri, and modification of the authorization for KCMQ(FM) to specify operation on the new upgraded channel. Nearly nine years have now passed without reaching a final resolution of the proceeding. While, in the interim, Zimmer has received a license to operate on Channel 244C1 (File No. BLH-19991020AAA), a cloud remains over the station's upgraded operations due to the continuing pendency of the instant proceeding. It is now time, or indeed long past time, to bring this proceeding to its final conclusion.

2. On April 20, 2001, the Commission released a *Memorandum Opinion and Order*, DA 01-1018 (“*MO&O*”), which was intended to have that effect. Indeed, immediately under the title of the *MO&O* is the notation “Proceeding Terminated.” In the *MO&O*, the Commission notes that Lake’s license for KBMX(FM), Eldon, Missouri, and its construction permit for KFXE(FM), Cuba, Missouri, have been revoked, and that revocation has become final. Accordingly, the Commission dismissed Lake’s previous petition for reconsideration in this proceeding as moot.

3. Lake has now submitted yet another Petition for Reconsideration, arguing that the dismissal of its previous petition was premature. Lake points to *Contemporary Media, Inc.*, 13 FCC Rcd 14437 at 14461, ¶ 45, which authorizes Lake to continue to operate until 12:01 a.m. on the 91st day after the completion of judicial review. Petition for Reconsideration at 1-2. As that period will not expire until July 12, 2001, Lake claims that the dismissal of its previous petition for reconsideration as moot was therefore premature. Lake further claims that it intends to seek extension of its operating authority and other equitable relief from the Commission.

4. Lake’s argument is entirely misplaced, however. Nothing Lake can say changes the fact that its authorizations have been revoked, and that revocation has become final. Further, the portion of the Commission’s decision in *Contemporary Media, Inc.* cited by Lake makes it clear that the purpose of allowing Lake to continue operating at all is “to conclude the stations’ affairs....” *Id.* Quite obviously, the grant of an authorization to continue operating so that a station’s affairs may be wound up in an orderly manner, with the least possible disruption to advertisers and the public, is far from the equivalent of the grant of a new license or construction permit. The fact remains that Lake has no continuing license or construction permit which may be modified by the Commission.

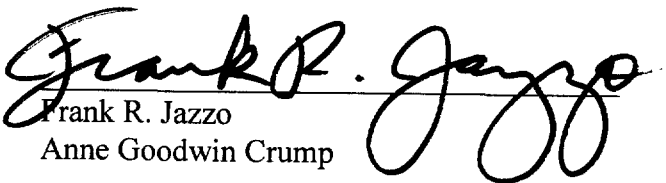
5. Moreover, regardless of any future decision to extend Lake's operating authority, and regardless of any equitable considerations which Lake may raise in the future, the Commission could not by administrative fiat restore a license or construction permit to Lake. The license revocation proceeding completed the full administrative and judicial review process, and the outcome is now final. It is not within the Commission's power to reverse that outcome. The only way in which Lake could acquire a license or construction permit would be to follow the normal administrative processes for acquiring new construction permits and licenses, a remote prospect at best. Even if Lake were to pursue this course successfully, in the interim, it would have no license or construction permit which could be modified, and any construction permit which it did receive would be for a new station, not for an existing station. Accordingly, a proposal to modify any such future construction permit or license could have no place in this proceeding, as the station would not even come into being until long after the comment deadline herein.

6. Given these facts, the Commission was entirely correct in dismissing Lake's previous petition for reconsideration as moot. Accordingly, Zimmer requests herein that Lake's Petition for Reconsideration be denied. Further, so that this proceeding may at last be drawn to a close, Zimmer requests that such action be taken expeditiously.

WHEREFORE, the premises considered, Zimmer respectfully requests that Lake's Petition for Reconsideration be denied post haste.

Respectfully submitted,

ZIMMER RADIO OF MID-MISSOURI, INC.

By: 
Frank R. Jazzo
Anne Goodwin Crump

Its Attorneys

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July 3, 2001

CERTIFICATE OF SERVICE

I, Penny Matthews, a secretary with the firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that I have mailed, first class postage prepaid, on this 3rd day of July, 2001, a copy of the attached OPPOSITION TO PETITION FOR RECONSIDERATION to the following:

John A. Karousos, Chief*
Allocations Branch
Policy and Rules Division
Mass Media Bureau, Room 3-A266
Federal Communications Commission
Washington, D.C. 205534


Ms. Kathleen Scheuerle*
Allocations Branch
Policy and Rules Division
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Counsel for Reichel Broadcasting Corporation

* By Hand Delivery


Penny Matthews

CERTIFICATE OF SERVICE

I, Barbara Lyle, a secretary with the firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that I have re-mailed, first class postage prepaid, on this 11th day of July, 2001, a copy of the attached Opposition to Petition for Reconsideration to the following:

John A. Karousos, Chief*
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Policy and Rules Division
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Federal Communications Commission
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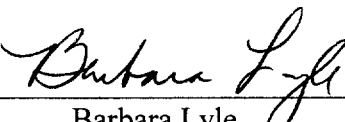
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